

**Center for Liberal - Democratic Studies**

**CORRUPTION ASSESSMENT REPORT: SERBIA**

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## INTRODUCTION

The report in front of you is prepared as a part of the regional effort by the SELDI network to analyze corruption in South East Europe. The main goal of the report is to provide the analysis of corruption phenomenon in Serbia and government anticorruption policies over the last years. The idea was to assess the dynamics of corruption as well as anticorruption efforts but also to assess the effectiveness of implemented measures. Since this research is a part of the regional research effort, it will provide an input into the regional report which would allow detailed cross country comparisons.

Also, this report represents the continuation of corruption research by CLDS, as CLDS has published several corruption related studies over the last 15 years, starting from Corruption in Serbia (2001), Corruption at the Customs (2002), Corruption in Judiciary (2004) and Corruption in Serbia: Five Years Later (2007).

The research has found that the corruption is still a widespread and dangerous phenomenon in Serbia. It is widely perceived as one of the most important problems by the general public and experts, but has also become one of the key political issues in the country. The current government owes, to a large extent, its significant majority in the Parliament to its perceived anti corruption credentials. However, improving legal framework and implementing anticorruption laws are still painstakingly slow processes.

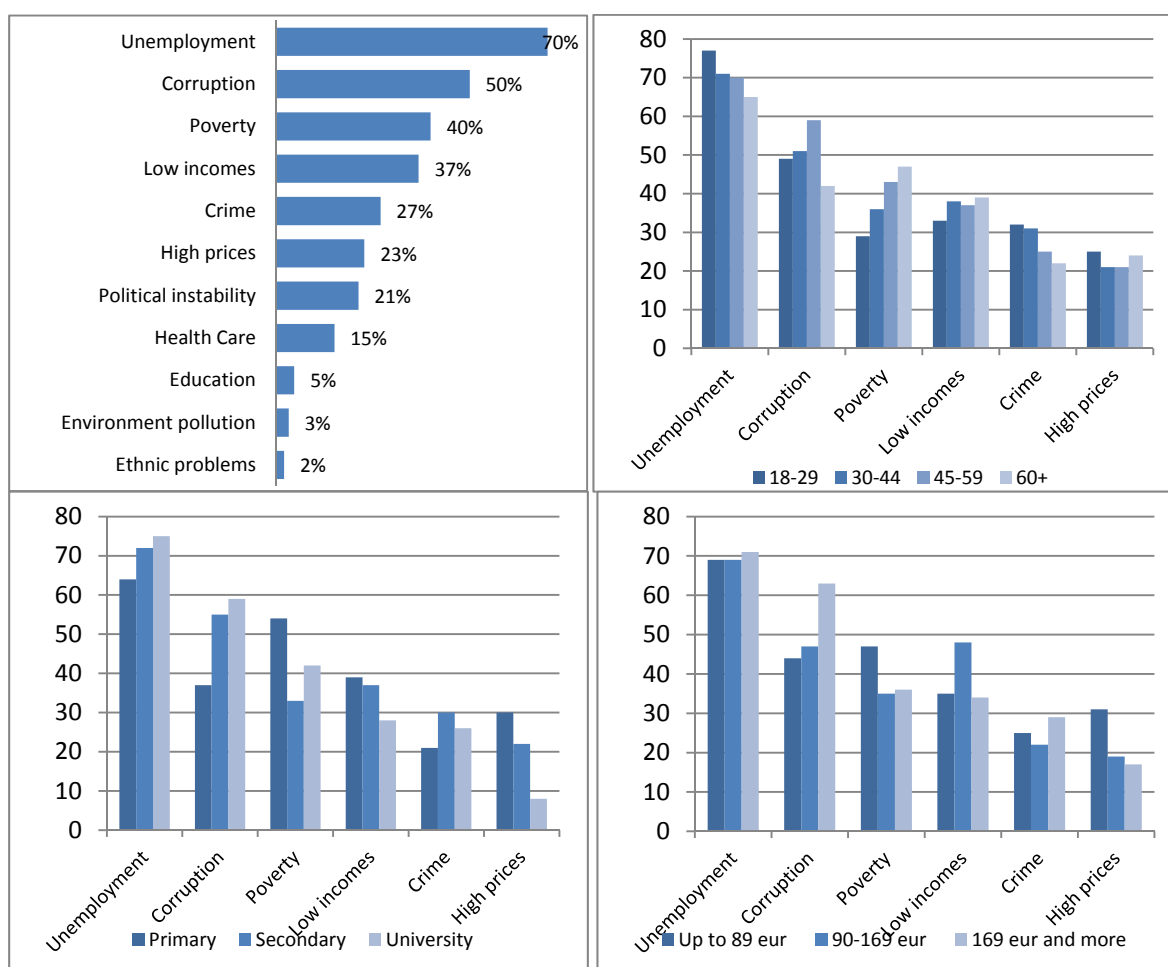
## CHAPTER I CORRUPTION LEVELS

### 1.1. Introduction

As throughout the region, corruption in Serbia is widely seen as one of three major problems. Full half of Serbian population lists corruption among top three social problems. There is some variation when it comes to age of population (almost 60% of the age group 45-59 see it as a problem, while just 42% of the age group 60+), but there is strong variation when it comes to education and income. Namely, in the most educated group (people with university degree), almost 60% see corruption as the major problem, while only 37% of people with just primary education see it as a problem.

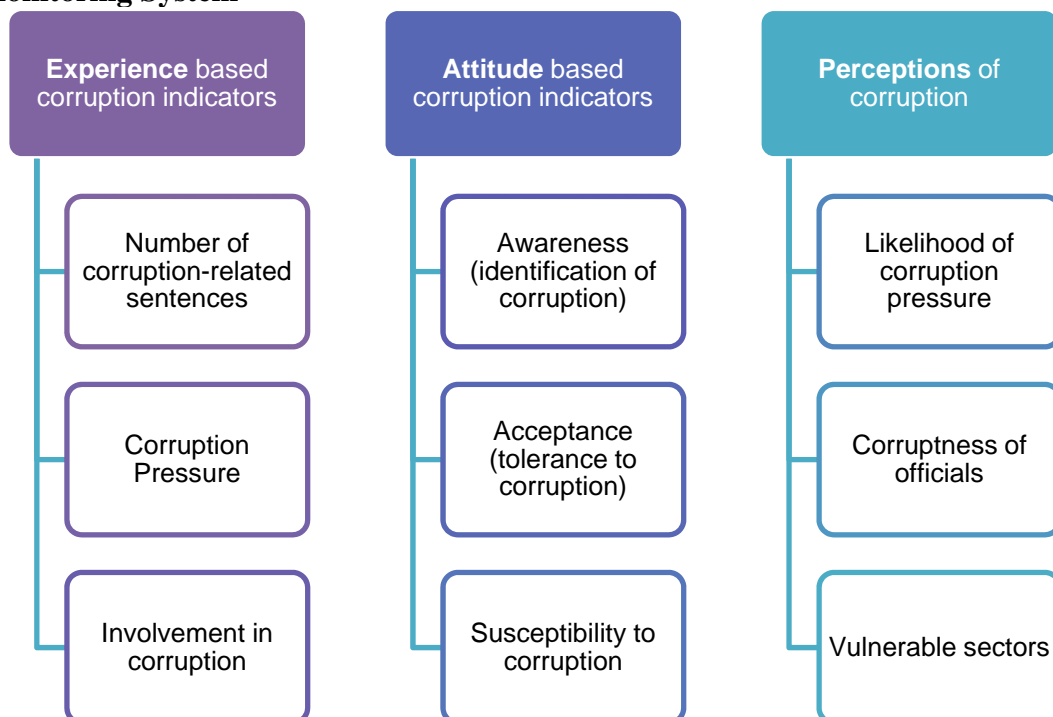
The similar results are observable when it comes to income – in the poorest part of population (with income per household member below 89 EUR) only 44% see corruption as a major problem, while 63% of the wealthiest part of population (household income per member higher than 169 EUR). However, even for poorest and least educated population, corruption is still among top three major problems (after unemployment and poverty).

**Chart 1.1.1: Top three social problems and distribution by age, education and income**



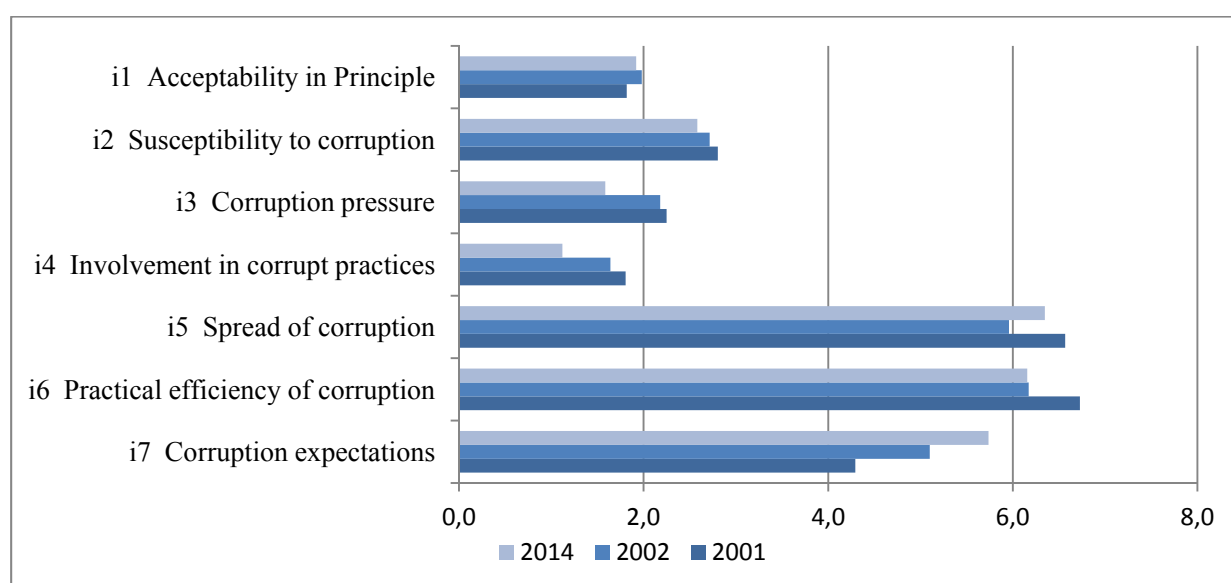
We have developed indicators in order to systematize the findings of the survey. The indicators are given in the table below.

**Chart 1.1.2: Principle corruption assessment indicators from the Corruption Monitoring System**



The following Chart shows the comparison in seven listed indicators for years 2001, 2002 (previous research, using the same methodology) and 2014.

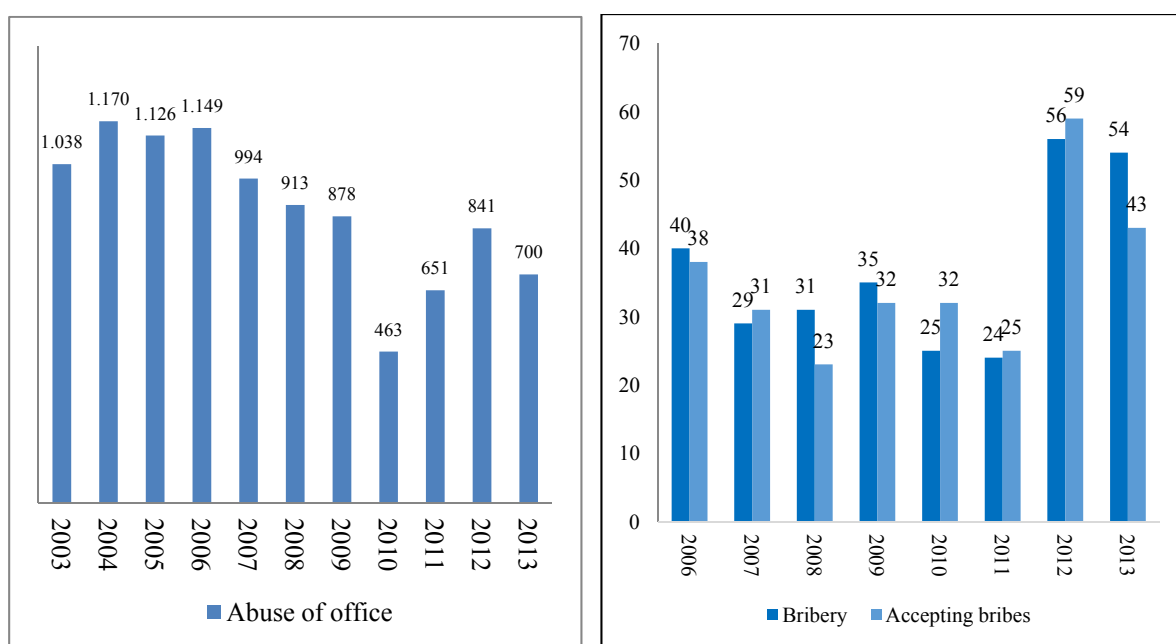
**Chart 1.1.3: Summary of the findings**



## 1.2. Experience with corruption

Over the last several years, the number of people convicted for abuse of has been declining, while the number of people accused of bribing and receiving bribery has witnessed a significant increase in 2012 and 2013.

**Chart 1.2.1 : Number of people sentenced for abuse of office and bribery**

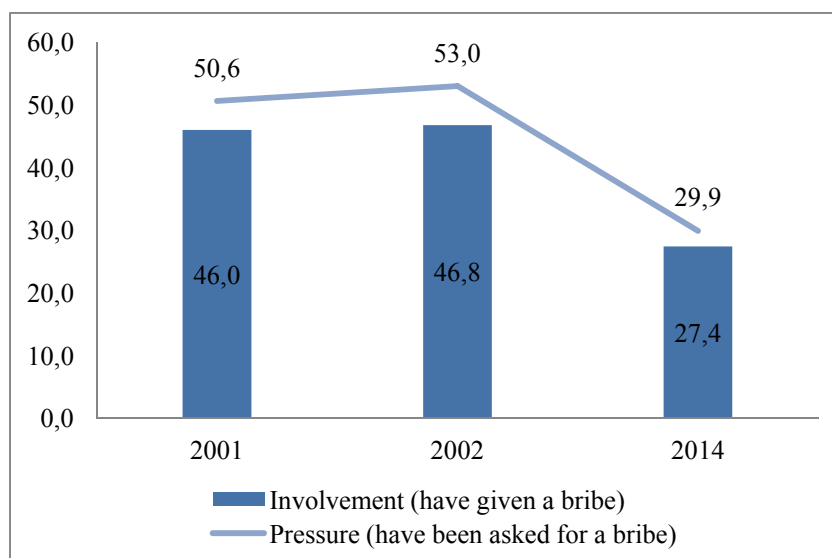


Source: Statistical Office of the Republic of Serbia

However, there was a significant progress regarding actual victimization, that both corruption pressure and involvement in corruption has been reduced. But, the source of this reduction is somewhat puzzling. Namely, as graphs below demonstrate, there was significant reduction in answers “Experienced corruption pressure” and “Gave bribe”, but almost all of reduction can be attributed to significant increase in answer “No contact with administration”, not to reduced answer “No corruption pressure” and reduced number in answer “Did not give bribe”.

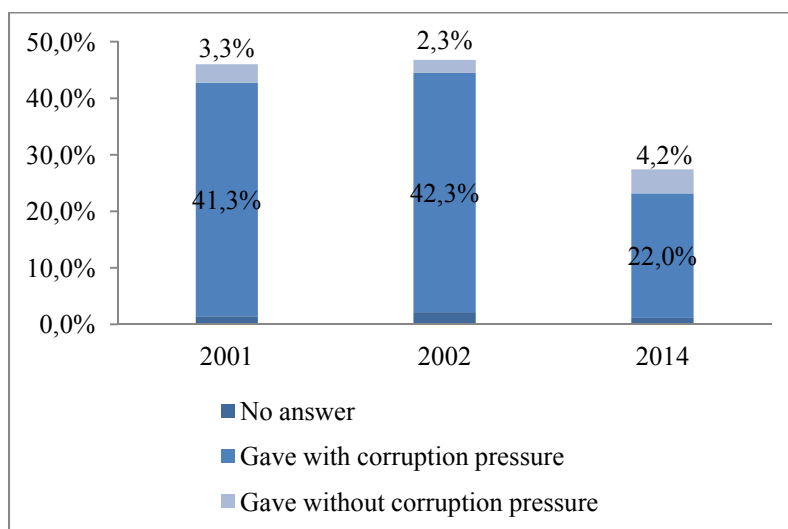
So, generally, it can be said that almost all reduction in victimization is the result of less contact with administration (which maybe can be called “liberalization”) and is not the result of less corruption when citizens have to get in touch with administration.

**Chart 1.2.2: Corruption pressure and involvement in corruption (% of the population 18+ who have been asked to give and have given a bribe (money, favour, gift) in the last year)**



*Source: SELDI Corruption Monitoring System*

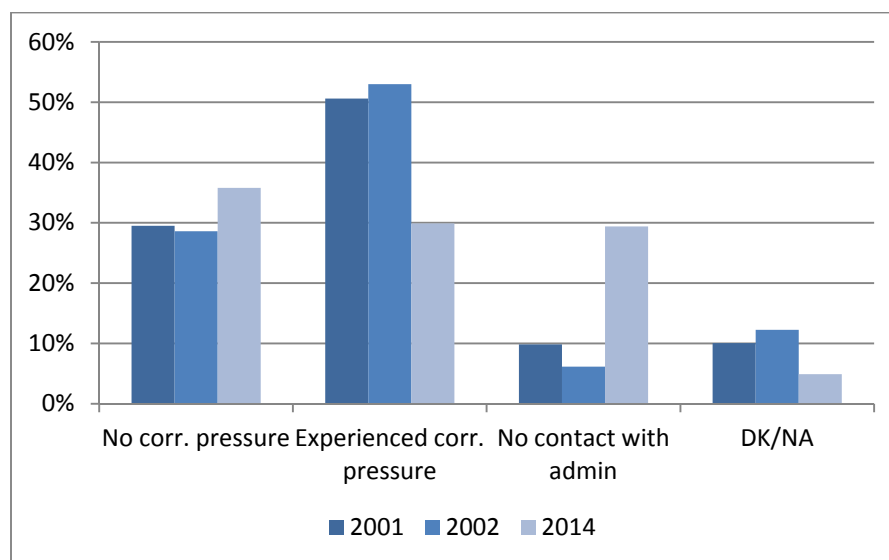
**Chart 1.2.3: Involvement in corruption with or without corruption pressure ((% of the population 18+, who have given a bribe with or without corruption pressure)**



*Source: SELDI Corruption Monitoring System*



**Chart 1.2.4: Corruption pressure and contact with administration**

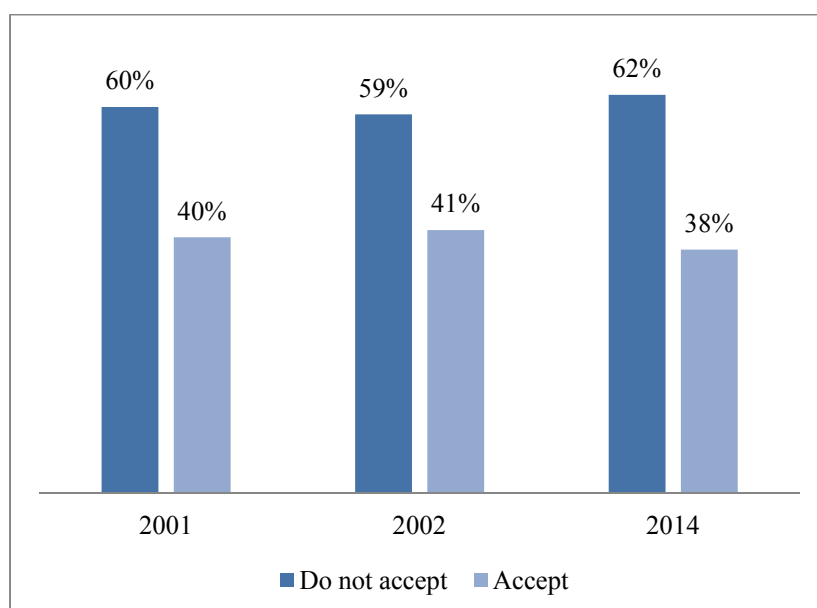


*Source: SELDI Corruption Monitoring System*

### 1.3. Attitudes towards corruption

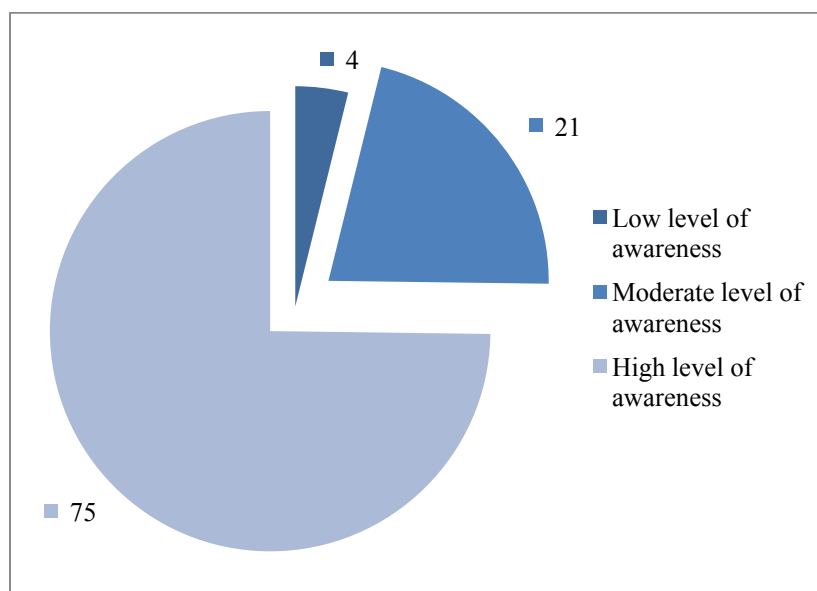
The progress on the indicators regarding the *Attitudes against corruption* (*Acceptability of corruption in principle* and *Susceptibility to corruption*) has been very modest over the last 14 years, which is disappointing.

**Chart 1.3.1: Acceptability of corruption (% of the population 18+, who accept or do not accept different forms of corrupt behaviour)**



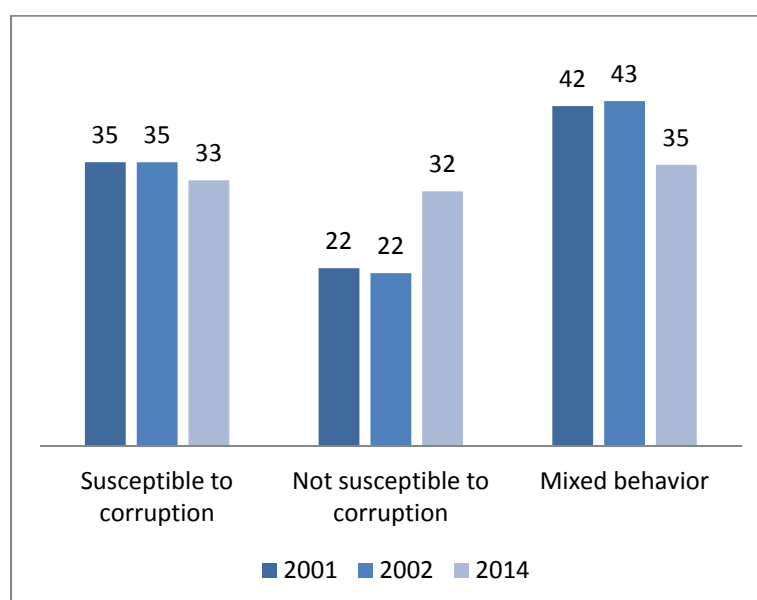
Source: SELDI Corruption Monitoring System

**Chart 1.3.2: Awareness (identification) of common corruption practices (2014) (% of the population 18+ identifying common corruption practices - all (high), many (moderate) and few (low))**



Source: SELDI Corruption Monitoring System

**Chart 1.3.3: Susceptibility to corruption (% of the population 18+ that would give and/or accept a bribe in the role of citizen and/or official)**

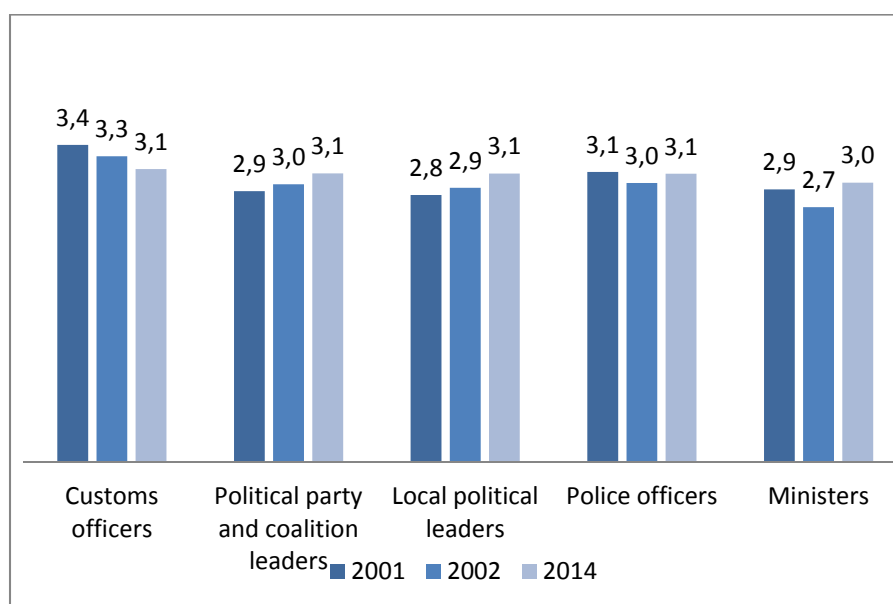


Source: SELDI Corruption Monitoring System

## 1.4. Perceptions of corruption

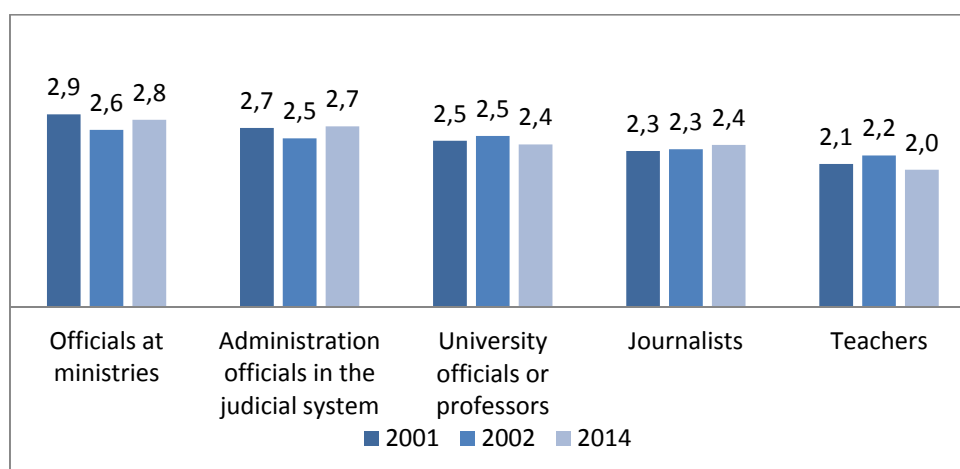
The following graph shows the ranking of the most corrupt occupations, as seen by the Serbian population in a survey. The list is dominated by civil servants (police and customs officers), politicians (local political leaders, party leaders, members of parliament, ministers). Also, private sector participants (business people, NGO leaders, bankers) are somewhat more favourably ranked. The perception is that the least corrupt profession are teachers.

**Chart 1.4.1: Perceptions of corruptness of public officials – most corrupted Officials perceived as most corrupted on a scale from 1 to 4, where 1 is "Almost no one is involved" and 4 is "Almost everybody is involved"**



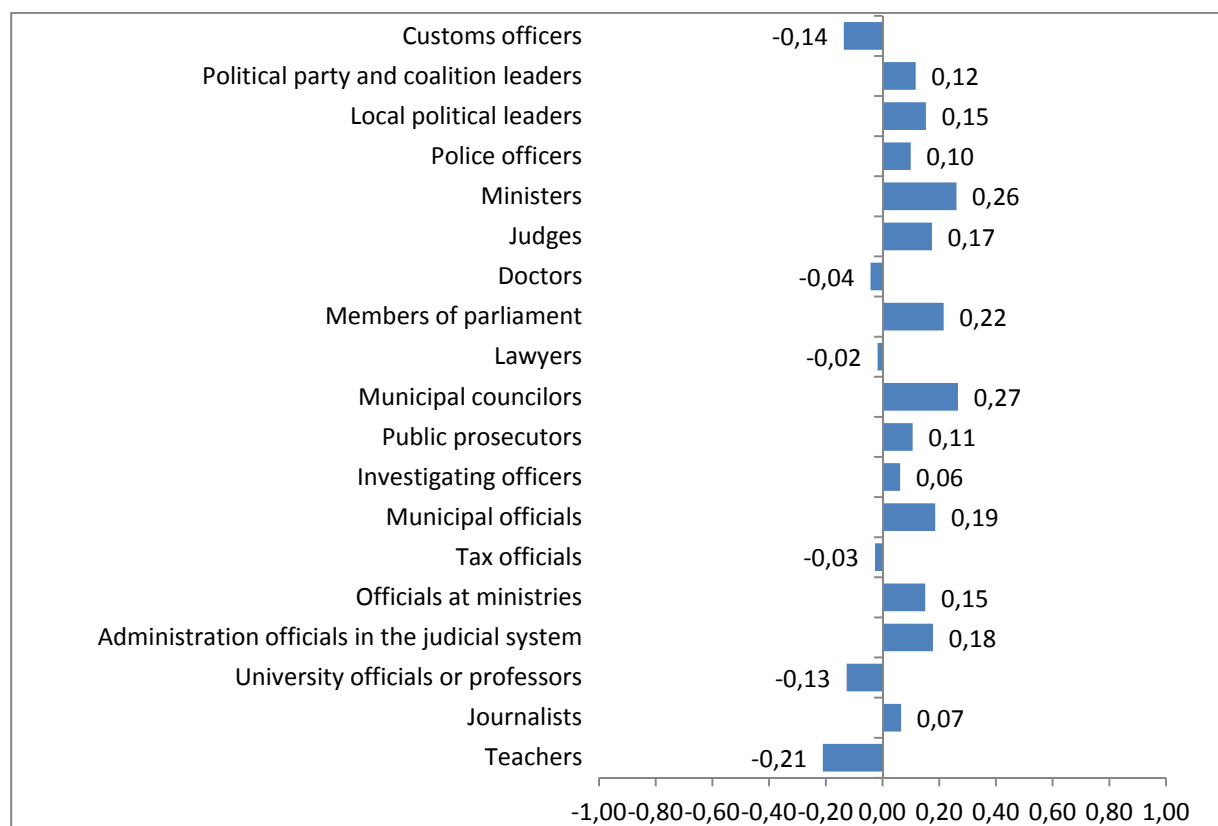
*Source: SELDI Corruption Monitoring System*

**Chart 1.4.2: Perceptions of corruptness of public officials – least corrupted Officials perceived as least corrupted on a scale from 1 to 4, where 1 is "Almost no one is involved" and 4 is "Almost everybody is involved"**



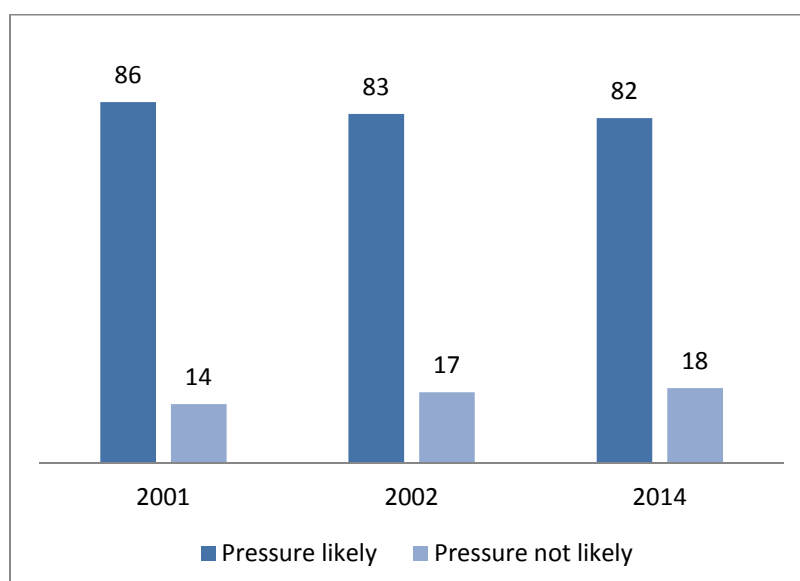
*Source: SELDI Corruption Monitoring System*

**Chart 1.4.3: Perceptions of corruptness of public officials – Change in perception between 2002 and 2014 (positive values represent increase in corruption, negative - decrease)**



*Source: SELDI Corruption Monitoring System*

**Chart 1.4.4: Perceptions of the likelihood of corruption pressure (% of the population 18+ considering corruption pressure "very likely" and "likely" v/s "not very likely" and "not likely at all")**

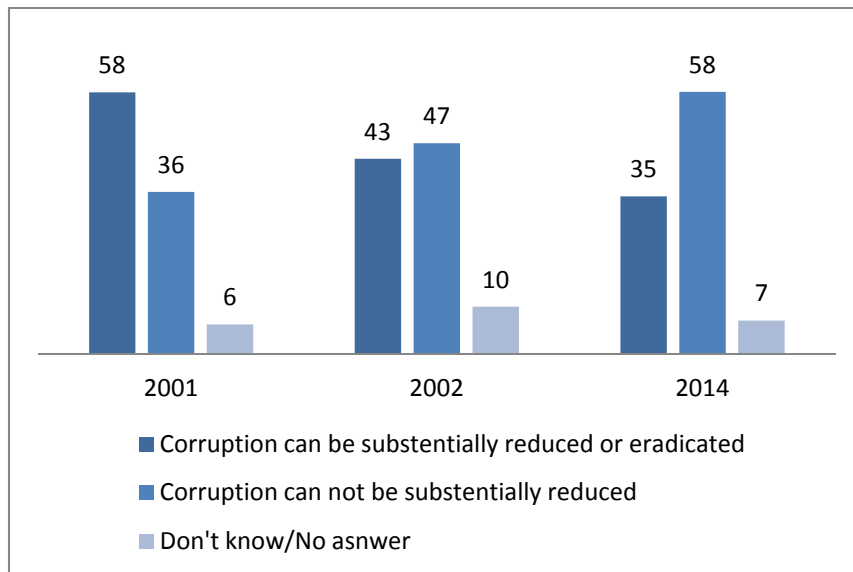


*Source: SELDI Corruption Monitoring System*

### 1.5. Perceptions of feasibility of policy responses to corruption

There was significant deterioration in the perception of the feasibility to tackle corruption. The optimism from the early 2000's is mostly gone.

**Chart 1.5.1: Perceptions of feasibility of policy responses to corruption (%)**



*Source: SELDI Corruption Monitoring System*

## **CHAPTER II**

### **ANTICORRUPTION POLICIES AND REGULATORY ENVIRONMENT**

#### **2.1 Outline of currently applicable national strategies and action plans**

New Anticorruption Strategy was adopted in July 2013, for the period 2013 – 2018. The Action Plan was adopted in August 2013.

The proclaimed objective of the Strategy is to reduce corruption to the lowest possible level, as it is “an obstacle to economic, social and democratic development of the Republic of Serbia”. The strategy mentions the following general principles:

- **The principle of the rule of law** – the guarantee of the legality of treatment, equality before the law and the rights of all citizens to the legal remedies.
- **The principle of "zero tolerance" of corruption** - The indiscriminate and unbiased application of law to all forms of corruption.
- **The principle of accountability** - the obligation to take full responsibility for the creation of public policies and their effective implementation, including implementation of this strategy and action plan.
- **The principle of universality of application of legal measures and cooperation between public institutions** – the duty to apply measures comprehensively and consistently in all areas, with cooperation and exchange of experiences, and harmonization of procedures between all relevant subjects, at all levels, with established good practice.
- **The principle of efficiency** - the duty of all institutions to regularly carry out anticorruption measures, within their powers, and to perform continuous training for improving efficiency in the fight against corruption.
- **The principle of transparency** – the guarantee of transparency in the process of making and implementing decisions, as well as enabling citizens to access information, in accordance with the law.

The Strategy recognizes the following areas as the most important for reform:

#### **1. Political activities**

- a. campaign financing
- b. involvement of the civil society sector in policy development processes

#### **2. Public finance**

- a. tax and customs administration reforms
- b. public finance transparency
- c. improved public procurement procedures
- d. improved control and audit processes

#### **3. Privatization and public-private partnerships**

- a. reducing the risk of corruption in cases of privatization and concession

#### **4. Judiciary**

- a. ensuring independence, autonomy and transparency of the judiciary in terms of budgetary powers

- b. improving the process of selection, promotion and accountability of holders of judiciary functions
- c. improving criminal law and harmonising it with international standards
- d. improving communication and coordination between the key actors, etc.

## **5. Police**

- a. improving police capacities required for investigations of corruption-related criminal offenses
- b. strengthening the integrity and internal control mechanisms for the purposes of combating corruption within the police

## **6. Spatial planning and urban development**

- a. improving the Real Estate Cadastre
- b. reducing the number of procedures and introducing a single window system for issuing development, construction and other permits
- c. ensuring transparency in the process of adoption of spatial and urban plans at all levels of government

## **7. Health care system**

- a. improving the legal framework
- b. providing efficient mechanisms for integrity, accountability and transparency,
- c. ensuring a transparent information system

## **8. Education and sport**

- a. changing the legal framework related to the appointment, position and powers of principals of primary and secondary schools, as well as university faculty deans
- b. ensuring transparency of the procedures for registration, examination, grading and evaluation of knowledge at all academic institutions
- c. improving the accreditation process
- d. establishing transparency of sports financing and the ownership structure of sports clubs and federations

## **9. Media**

- a. (transparent ownership, media funding and editorial policy)

For each of these areas, the Strategy analyses the situation and provides a more or less general recommendation. In order to specify the recommendations and measures, in addition to the Strategy, the Ministry of Justice has prepared a fairly detailed Action Plan. The Action Plan was adopted by the Government in August 2013. The monitoring of the Strategy implementation is the responsibility of the Anticorruption Agency.

## **2.2. Changes to national anticorruption policies over the past three years**

In addition to adopting the new Anticorruption Strategy and Action Plan, the Government which took office in mid-2012, and the follow-up Government which took office in April 2014 put fight against corruption very high on its agenda.

So far, several high-profile people have been arrested and indicted (two former ministers, several major businessmen, and dozens of other officials). Only few trials have started yet, and the general impression is that:

1. The process is mostly driven by high-level politicians, with official institutions of the state (police, prosecutor, courts) playing mostly a supporting role.
2. Leaks to the media on how the process is going severely undermine the credibility of the process and provide ammunition for the opposition parties to claim that the processes are politically motivated.
3. Legal framework for dealing with these issues is outdated as most of the “business crimes” are effectively specified in the same way as in the socialist times.
4. Most of the “high-level corruption cases” do not actually include anyone charged for the crime of corruption, but for other crimes (tax evasion, abuse of official position, etc.).

The Government seems to understand that anticorruption efforts require a systematic approach by many official participants, and the Ministry of Justice and Public Administration has therefore prepared a National Anticorruption Strategy in the Republic of Serbia, for the 2013-2018 period, as well as an Action Plan for its implementation.

## **2.3. Assessment of the regulatory environment for anticorruption**

### **2.3.1 Anticorruption provisions in the law**

The Law on the Anticorruption Agency was adopted in 2008, with the main idea of establishing a new institution that would deal with corruption issues in a comprehensive manner. The establishment of the specialised institution was envisaged in the previous Anticorruption Strategy (adopted in 2005), with the aim to:

- 1) Monitor the implementation of the Strategy and Action Plan
- 2) Coordinate activities of the public institutions in the fight against corruption
- 3) Implement procedures related to conflict of interest
- 4) Control the implementation of the rules related to party and campaign financing
- 5) Monitor the work of other state institutions directly in charge of anticorruption activities
- 6) Develop integrity plans in the public and the private sector
- 7) Initiate legislative changes
- 8) Periodically report to Parliament
- 9) Cooperate internationally and regionally on anticorruption issues.

The Agency effectively started its operations in 2009, when the Agency’s Council was elected.

The Law on the Anticorruption Agency confers upon this independent public institution a range of competences, a number of which are preventive. Prevention activities comprise the identification of occasions and situations that offer incentives for corrupt behaviour, and the



design and establishment of mechanisms aimed at eliminating corruption-inducing conditions before they lead to corrupt actions.

### **2.3.2 Criminal law and procedure**

Corruption is a criminal offense in Serbia, as is trade in influence and certain other activities. In the following section we provide an overview of corruption and related criminal offenses.

- a) Trade in influence, which is stipulated in the Criminal Law (Article 366).
- b) Soliciting and accepting bribes, which is stipulated in the Criminal Law (Article 367)
- c) Bribery (Article 368), the Law has the following provisions:
- d) Abuse in public procurement processes (article 234a)

### **2.3.3 Related criminal acts**

There are several other criminal acts, defined in the Criminal Law which are, strictly speaking, not considered corruption, but are closely related and most of the time actual “corruption cases” are related to some of these provisions.

- a) Misfeasance in business (Article 234)
- b) Causing bankruptcy (Article 235)
- c) Causing false bankruptcy (Article 236)
- d) Abuse of authority (Article 238)

## **2.4 Other legislation intended to combat corruption**

### **2.4.1 Provisions on conflict of interest**

Law on the Anticorruption Agency contains provisions regarding conflict of interest, with the idea of limiting the possibility of a public official putting his/her private interest above public interests in decision-making.

Although in the narrow sense the fight against corruption is not the main purpose of these provisions, but rather the fight against embezzlement and biased decision-making, one still has to note that this law prevents some corruption mechanisms.

As regards the coverage of the Law, it seems that a very large number of public officials is covered. On the one hand, this is actually a shortcoming of this Law, because the number of public officials in terms of this Law is too high, therefore the Anticorruption Agency must invest a large portion of its resources in the creation and maintenance of a database of public

officials. On the other hand, some decision-makers are not covered by this Law, such as advisors to the Prime Minister and Deputy Prime Minister, as well as advisors to ministers.

The law also prohibits public officials from having managing rights in business companies, i.e. they must temporarily assign these managing rights, for the duration of their term in office, to a person that is not a related party. Similarly, it is prescribed that public officials must not be members of managements of public enterprises.

#### **2.4.2. Whistleblower protection**

In November 2014 the Whistleblower Protection Law was adopted. The Law defines whistleblowers as individuals who are “blowing a whistle” in relation to matters concerning their employment, but also related to the employment policy, service provision, or other possible abuses. These individuals are protected from being fired or other potential abuse.

However, as the Law was just adopted recently, it is still too early to assess the strength of the legal protection in practice.

## **CHAPTER III INSTITUTIONAL PRACTICE AND ENFORCEMENT OF THE LAW**

### **3.1. Specialised anticorruption institutions in the executive**

The Anticorruption Agency was founded under the Law on the Anticorruption Agency, adopted in October 2008, and implemented from January 2010, as an independent public body, accountable to the National Assembly (which elects the members of the Council) and to the Serbian public.

The Law on the Anticorruption Agency confers upon this independent public body a range of competences, a number of which, by their nature and character, belong to the sphere of preventive anticorruption activities. The prevention activities entail the identification of occasions and situations that offer incentives for corrupt behaviour. The Agency was also conferred with the competences intended for the establishment and implementation of monitoring and oversight of the correct and appropriate exercising of public authority given to public officials so that they would ensure the protection of public interests in the sphere of their responsibilities.

The Agency is also responsible for identifying irregularities which are fundamentally corrupt in character, or represent instances of corruption in its classic form.

The last preparatory phase of the integrity plan introduction in approximately 4,500 public institutions took place in 2012. A user package (including software, guides, manuals, instructions, training, advice, models of documents and instruments for data collection, along with other components) was prepared and made available to interested parties. Also, the Agency provided information and advice relating to the introduction of integrity plans was provided for 3,102 representatives of 1,902 public authorities in Serbia;

In the previous year particular attention was given to activities aimed at improving public spending oversight. In the area of incompatible offices and conflict of interests, 785 of the 872 cases received were acted upon and resolved. 6,606 assets and income declarations were received, and 4,906 were processed and published, compared to 3,853 declarations received, and 1,262 processed and published in 2011, making for a fourfold increase in the efficiency of assets and income declaration processing and publishing.

### **3.2. Anticorruption mechanisms in the legislature**

The financing of political parties is often considered to be one of the main factors (mechanisms) of corruption. Namely, since modern parties engage considerable resources, both during election campaigns and outside of them, the question is rightfully raised as to how to ensure the transparency of the financing of these activities.

The Law, which the National Assembly of the Republic of Serbia adopted in July 2003, and whose implementation started on 1 January 2004 (and which were mostly integrated into the Law on the Anticorruption Agency in 2008), adopted the position that the state should

finance the work of political parties to a relatively high extent. The Law stipulates that the funds for the financing of political parties may be obtained from public and private sources.

The Law also governs the manner in which election campaigns are financed. The Law stipulates that resources for the financing of the costs of an election campaign are to be raised from private and public sources, sets the amount of funds that are allocated, and determines the limits for individual contributions, as well as a cap on the costs of the election campaign.

In addition to preventive provisions, it is very important that the laws that govern the financing of political parties also define the mechanisms for financing supervision and control. Since the models of “illegal” financing are very similar around the world, there is a universally accepted mechanism in the domain of control – the obligation to present and publish reports on financing and assets. Pursuant to the law, these reports should be published in the Official Gazette of the Republic of Serbia.

### **3.3. Other national level control bodies**

#### **3.3.1. The Law on Free Access to Information of Public Importance**

The Law on Free Access to Information of Public Importance was passed in 2004 and has been amended several times since.

Information of public importance available to the public authority is defined by the law as the information about everything that anyone has a justifiable interest in knowing about, while the definition of public authority includes not only all government bodies, bodies of territorial autonomy and local self-government, but also the persons entrusted with exercise of public authority, as well as the legal persons established or financed wholly or predominantly by a government body.

The law defines the principle of equality in exercising the rights, primarily the following: the right to be notified whether the public authority possesses certain information of public importance, and whether it is otherwise available, the right to have insight into documents containing information of public importance, the right to a copy of that document, as well as the right to delivery.

Finally, excluded from the general legal regime of access to information of public importance is information that is not of public in nature, or if the right to privacy, the right to reputation or some other right of the persons the requested information personally relates to would be violated by it.

The Law establishes the Commissioner for Information of Public Importance, as a separate institution, who also has the right to conduct independent investigations, and the Law also contains provisions on validity or the binding character of the decisions and resolutions passed by him/her, as well as provisions on legal remedies against his/her decisions. The provisions by which the Commissioner is established and the precise rules on his/her appointment and term termination, position and authority are set up with the intention to ensure his/her independent position, so they largely based on the rules for the appointment and dismissal of judges.

### **3.3.2. Law on the Prevention of Money Laundering and the Financing of Terrorism**

This Law defines money laundering and prescribes actions and measures undertaken for the purpose of its detection and prevention. It also regulates the authority of the Administration for the prevention on money laundering, as well as of other bodies in charge of enforcing this law. The Law also defines the obligors who are required to undertake actions and measures for the detection and prevention of money laundering, as well as these actions and measures. Certainly the most significant obligation is party identification in each transaction (cash or cashless), or in several mutually connected transactions, the amount of which is 15,000 EUR or more, in dinar equivalent.

In addition, the Law stipulates the obligation of delivering the data enumerated by the Law on participants in transactions, business relationships and transactions themselves to the Administration. This obligation exists whenever there are grounds for suspicion that a related party to the transaction or transaction itself has anything to do with money laundering or terrorist financing, regardless of the amount of the transaction.

The Law on Prevention of Money Laundering and Financing of Terrorism stipulates oversight of the implementation of the Law by the taxpayers and attorneys.

The most important bodies authorized for supervision are: the Administration for the prevention on money laundering, the National Bank of Serbia, the Securities Commission and other inspection bodies that, in accordance with other laws, are competent for the performance of inspection oversight. Also, the Law introduced significant changes in the penal provisions compared to the previous law and increased the penalties in accordance with the Law on Economic Offences and the Law on Infractions. The criminal offence of money laundering which was introduced in the Serbian Criminal Code in 2009, is in line with the codification of criminal legislation, regulated by the new Criminal Code.

### **3.3.3. State Audit Institution**

State Audit Institution is the highest authority for the auditing of public funds in the Republic of Serbia. It was founded in 2005, by adopting the Law on the State Audit Institution. It is an independent state authority. The Institution is accountable to the National Assembly of the Republic of Serbia for the conduct of activities stemming from its competence. Among other things, the State Audit Institution plans and performs audits, enacts bylaws and other regulations for the purposes of implementing the Law on the State Audit Institution, submits reports to the National Assembly of the Republic of Serbia and assemblies of local authorities, may provide advice to public funds beneficiaries, may give suggestions on the drafts of laws and other regulations, and may give opinions on issues in the area of public finances.

The President, the Vice-President and members of the Council are elected and dismissed by Parliament, by majority vote of all members of parliament, at the proposal of the competent parliamentary committee. Members of the Council are elected for a five-year period and may only be appointed two times.

#### **3.3.4. Public administration**

Civic Service Law provides several anticorruption provisions. First of all, Article 23a prescribes that civil servants have an obligation to inform their superiors if they acquire information about corruption. Also, it is stated that, as of the day of providing information, civil servants are “protected in accordance with the Law”, but it is unclear what this means.

Article 25 defines that civil servants cannot accept a gift or other favour for themselves or for someone else for doing their job, other than a gift of low value. Civil servants also cannot use their job to influence acquiring of any rights for themselves, or related party. Also, all other provisions of the conflict of interest regulations apply to civil service.

According to Article 28, civil servants may not establish a legal entity or be entrepreneurs, but have to transfer ownership right to another person. Article 29 specifies that civil servants cannot have an executive function in any legal entity, unless appointed by the Government.

Article 30 defines that civil servants need to inform their superiors of any conflict of interest that they, or their related party, may have in relation to a decision of a state body that they are a party to.

#### **3.3.5. Anticorruption Agency Law**

This Law has some additional provisions that are of interest, such as regulation of gifts and the property register.

Regarding **gifts**, Article 39 defines that public office holders may not accept a gift, other than suitable and protocol-related gift. Such a gift must be handed over to the state institution in charge of property, except if the value of the gift is less than 5% of the average net salary in Serbia, in which case they can keep the gift. However, they can keep such gifts only if the total value within the year is less than one average net salary.

Articles 43 through 49 define the processes for **declaring property and the property register**. Each elected official has to report property and income within the 30 days of being elected and/or appointed, for them self, their spouse and underage children. The same report must be submitted within 30 days of leaving the public service. Also, elected officials have to provide special reports by end of January, if there were significant changes during the previous calendar year.

#### **3.3.6. Law enforcement**

The role of the police is defined in the Law on Internal Affairs and Law on Police, but there are no special provisions for corruption-related crimes in those laws – general procedures apply to corruption and white-collar crimes.

However, there is a special Law on Organization and Authorities of Public Institutions in Combating Organised Crime, Corruption and Other Serious Crimes, which was adopted in 2002.

This Law applies to organised crime, assassinations, armed mutiny, abuse of public office (articles 358, 366-368 of Criminal Law) when the accused is elected or appointed by

Parliament, the Government, the High Judicial Council, or the State Board of Prosecutors, abuse of official position (article 234) and crime related to public procurement, when the illegal gain is above 200 million dinars; terrorism, incentivising terrorism, use of lethal instruments and money laundering, if the funds being laundered are related to crimes specified in this Law.

The Law established the Prosecutor's Office for Organised Crime as well as specialised courts and prison units. All persons who work in these units have to provide property and income reports to the Anticorruption Agency, but the definition of related parties is broader.

## **CHAPTER IV**

### **THE JUDICIARY IN ANTICORRUPTION**

#### **4.1. Organization of courts**

The Serbian Constitution stipulates that judges in Serbian courts are independent. There are two elections of the judges: the first one to the three years term by Parliament, proposed by the High Judiciary Council (Visoki savet sudstva) and the following one with a permanent mandate (no time limit) by the High Judiciary Council (with 3 *ex officio* members and 8 members appointed by Parliament). The promotion is based on a two-tier scheme with the first three years being “probation” – satisfying results provide the grounds for a life-long career as a judge. The criteria for appointment are professional (bar exam, plus specific professional experience, from two years for a misdemeanour magistrate, up to 12 years for the judge of the High Court of Cassation, competence, etc.) and personal (moral values).

Evaluation of the performance of the judges is done by their peers, judges of the higher courts. The performance of higher court judges is evaluated by the High Judiciary Council. All evaluations are based on, or should be based on, professional merits. Nonetheless, criteria for the evaluation are vague, as the sub-statutory text on the criteria has still not been adopted.

Removal criteria and procedures are stipulated in the law. There are three grounds for the removal of judges: (1) conviction for a crime followed by a prison sentence of at least six months; (2) incompetent behaviour; (3) gross disciplinary misdemeanour. There are written criteria that stipulate what incompetent behaviour is and how it is established. Furthermore, there is a precise list of gross disciplinary misdemeanours stipulated in the legislation. In both cases (2) and (3) the decision, following appropriate deliberation, is passed by the High Judiciary Council. Removed judges may launch an appeal with the Constitutional Court of Serbia (constitutional complaint).

The Code of Conduct has been promulgated rather recently, at the end of 2010, and enforced by the High Judiciary Council. The Code of Conduct is a legal ground for disciplinary proceedings against judiciary officials by the High Judiciary Council.

#### **4.2. Organization of prosecutors**

There is no specialised anticorruption prosecutor, but rather all the indictments are formulated by the Serbian general Prosecutors Office (Republičko javno tužilaštvo). The procedure of appointment of the prosecutors is similar to that for judges, though the role of Parliament is greater. The term in office of the chief prosecutor is six years, but he/she can be reappointed. The initial terms of the other prosecutors is somewhat shorter, but can be turned into a permanent one after one term. The State Council of Prosecutors (Državno veće tužilaca, an institution similar to the High Judiciary Council) nominates candidates for appointment and appoints lower level of prosecutors.

Nonetheless, there is a Specialised Prosecutor for Organised Crime, as a special sector of the Serbian Prosecutors Office. This Prosecutor is in charge of, among other things, investigating and indicting corruption cases in which total material gain is above 200 million RSD (slightly above 1.7 million EUR). The cases that are tried by the Specialised Prosecutor go to trial before the Specialised Court for Organised Crime. These proceedings (both indictments and



trials) are high-profile cases with substantial media coverage. The track record of these specialised institutions in the cases of large-scale corruption is virtually nonexistent in terms of final verdicts/judgments, though one should note that the indictments have been filed rather recently.

### **4.3. Operations of judiciary**

The greatest problem of operations of judiciary is that there is no accountability whatsoever for the judges; at least this is the judges' perception of their independence. Formally, judges are accountable to their peers, but it is rather easy to see that there are no mutual incentives for the members of the same profession to push each other to the limit – accordingly, the judiciary is a very non-competitive environment. According to the official judiciary statistics, 48% of the cases are not decided 24 months from their commencement– a testimony to the consequences of no accountability. Hence it seems that strong public pressure is needed to end the gridlock, but there should also be a shift within judiciary itself.

Public confidence in the judiciary is undermined by a number of clear cases of the lack of competence, much more than the perception of corruption in judiciary, i.e. corruption of judges. On average 20% of the verdicts of the first-instance courts are overturned.

Serbia has an inadequate organization of the judiciary; inefficient operations testify to this. This does not only apply to organization in the terms of the court network and its density, but also to the organization of the jobs inside the court, especially regarding the division of labour between judges, advisors and aids. This brings us to the issue of the workload of the individual judges, who are overwhelmed with the number of cases, with huge backlogs, since case management is poor and division of labour is rudimentary.

An additional problem was the four month strike of attorneys related to the introduction of the public notary system. So, the court system did not work at all in any case requiring attorney presence starting from September 2014 and ending in January 2015, which means that the already significant backlog of cases has become even larger.

### **4.4. Corruption statistics**

As far as crime statistics in Serbia are concerned, only judiciary statistics are publicly available, basically the number persons indicted and number of persons convicted for each category of crimes. Although corruption is classified as a crime in the Serbian Penal Code, it is not named as corruption. The closest approximation of corruption in the statutory text would be group of “crimes against the office”. This includes: (1) abuse of the official function (authority); (2) violation of the law by judge, prosecutor or deputy prosecutor; (3) fraud in the public sector; (4) embezzlement; (5) accepting a bribe; (6) soliciting a bribe; and some other offences with negligible occurrences. Available data for the “crimes against the office” are disclosed in the table below, including data and conviction rates from 2003 to the last available year.

**Table 4.4.1.**

Year	Indicted (number)	Convicted (number)	Conviction rate (%)
2003	1,566	1,038	66.3%

2004	1,798	1,170	65.1%
2005	1,839	1,126	61.2%
2006	1,907	1,149	60.3%
2007	1,567	994	63.4%
2008	1,578	913	57.9%
2009	1,452	878	60.5%
2010	784	463	59.1%
2011	1,263	651	51.5%
2012	1,615	841	52.1%

Source: Adult Culprits of Criminal Offences in the Republic of Serbia in 2012 (“Punoletni učinioci krivičnih dela u Republici Srbiji u 2012.”), Bilten SK-12, Statistical Office of the Republic of Serbia (Republički zavod za statistiku), 2013

There is no specific statistics available on disciplinary proceedings against judicial officials. However, taking into account that corruption is a crime rather than disciplinary misdemeanour, crime statistics are more relevant. There is a specific crime “violation of the law by judge, prosecutor or deputy prosecutor” stipulated in the Penal Code. It is evident that corruption in the judiciary is recorded in the statistics of this crime. Available data for the “violation of the law by judge, prosecutor or deputy prosecutor” are disclosed in the table below, including the data and the conviction rate from 2010 to the last available year.

**Table 4.4.2.**

Year	Indicted (number)	Convicted (number)	Conviction rate (%)
2010	30	2	6.7%
2011	67	1	1.5%
2012	91	1	1.1%

Source: *Ibidem*

The conviction rate for this specific crime is far below the conviction rates for all corruption crimes. The intuitive explanation is that the judges are not very impartial in cases involving their peers, but one should not jump to the conclusion without going further into the details of the specific crimes (number and the quality of the criminal complaints, quality of the indictments etc.). Nonetheless, the regularity of extremely low conviction rates in all years deserves an explanation in further research, one way or the other.

#### **4.5. Recommendations**

- Reorganization of the judiciary, both in terms of the number of judges and territorial reorganization, but the most important reorganization should be within the courts, increasing division of labour and specialization.
- Specialization of the courts, or at least organisational divisions within the court as the first step. The random judge principle would not be endangered and would provide the ground for enhanced efficiency, increasing the number of advisors and aids and

having them specialise in different areas in law, enabling a judge to consult specialists in the decision-making process.

- The court of appeals should provide a judicial framework for judgment via “binding practices”, providing that the same cases have the same outcome regardless of which court/judge is passing judgment.
- The general public should be brought into the judicial process, as the judiciary should regain the trust and respect of the public. The initial step forward could be advocacy for the judiciary and its basic values by former judges. The results of the evaluation of the courts and judges, according to the properly specified criteria and indicators, should be made public, not only in the sense of availability of the data, but in leading the way to public debate about the judiciary and its performance.
- Improving education of the incumbent judges, as the newcomers must go through two-year compulsory training at the Judicial Academy. Sitting judges should also attend compulsory education, not in the due process of law, but in the fields that the law regulates.
- Possibly making entry criteria for judges more stringent, as more practical experience is needed for judge to mature; by increasing of the numbers of years of legal practice as a prerequisite for the judge of the court of first instance.
- Making publicly available accurate, detailed and up-to-date statistics on disciplinary proceedings against judiciary officials.

## CHAPTER V

### CORRUPTION AND THE ECONOMY

#### 5.1. Impact of government corruption on the business environment and economic development

Serbian economic growth and development since 2000 has proved not to be sustainable. Although rather high growth rates were recorded early in the first decade of the century, the global economic crisis and recession in 2008 delivered a severe blow to the Serbian economy. The GDP level, in EUR terms, in 2013 is still below the one in 2008 – a very disappointing result for one of the poorest countries in Europe measured by the GDP *per capita*. One of the most important contributing factors to the unsustainable economic growth and volatility of the Serbian economy has been the poor business environment.

The 2014 Doing Business survey, carried out by the World Bank group (implemented by the IFC), ranked Serbia 93<sup>rd</sup> country in the World according to the costs of doing business, i.e. barriers to economic activities. This is a drop of 6 places, from 87<sup>th</sup> place recorded in 2013. The most important barriers to economic activities and the most important contributing factors to the bad overall ranking of Serbia are: (1) dealing with construction permits (182<sup>nd</sup> place); (2) paying taxes (161<sup>st</sup> place); (3) enforcing contracts (116<sup>th</sup> place) and resolving insolvency (103<sup>rd</sup> place). Not only are all of these four obstacles government-created, all of them are also prone to corruption. The dealing with the construction permits is prone to corruption in the investment process and it definitely discourages Greenfield investments in Serbia, affecting the economic growth rate. The costs of paying taxes affects corruption in taxation as there is an incentive to speed up the procedure, not necessarily breaching tax regulation, but paying a bribe for tax authority officials to do their job properly. Problems related to enforcing contracts, mainly due to the inefficient and overloaded judiciary, provide incentives for corruption in the judiciary.

Similar results of the evaluation of Serbian business environment and economic freedom were obtained by 2014 Heritage/WSJ Index of Economic Freedom. The overall score of Serbia is a world ranking of 95, and as to the country comparisons, Serbia is slightly less free than the World average (59.4 points compared with the World average at 60.3), but substantially less free than the Regional average (67.1 points) and in particular less free than the average for free economies. Of the ten specific economic freedoms that were measured, Serbia is slightly better than the World average in four: trade freedom, investment freedom, financial freedom and fiscal freedom (which mainly focused to taxation, i.e. marginal tax rates). What is much more important for corruption, Serbia is well below the World average in both components of rule of law (property rights and freedom from corruption). The gap in the case of property rights is even smaller than the gap in freedom from corruption, the crucial indicator of economic freedom in this analysis (34.0 for Serbia against 39.8 for the World average).

These findings provide support to the insight that the level of corruption in Serbia linked to the business environment is rather substantial, i.e. that businesses face corruption challenges and that are involved in bribing officials. This insight is supported by the results of the empirical research (survey) of corruption in Serbia carried out by the UNDOC (United Nations Office on Drugs and Crime) “Business, Corruption and Crime in Serbia: The impact of bribery and other crime on private enterprise” in 2013 (as the report for 2014 is still not

available). According to the survey, of all the businesses that had contacts with a public official in the 12 months prior to the survey, 17% paid a bribe to a public official – a staggering rate.

According to the survey, the most common purpose for paying bribes by businesses is to “speed up business-related procedures” (40.3% of all bribes) demonstrating that due to the poor business environment and widespread government intervention, most of the corruption in Serbia is to exercise rights, i.e. to make the government administration to do its job in implementing such a widespread government intervention. This insight is corroborated by the finding that almost a quarter (23.4%) of the bribes paid served no specific immediate purpose for the businesses paying them, suggesting that this is a kind of investment in “friendly” government officials for their future, unspecified services, obviously the general speeding-up of administrative procedures.

## **5.2. Government budget spending and re-distribution**

Consolidated government spending, which includes central government, local and provincial governments and social security funds (health, pension and unemployment funds) in Serbia is very high, at more than 46% of GDP in 2013.

From the viewpoint of economic classification of expenditures, spending is dominated by mandatory spending (pensions, wages, interest, social assistance, health), while nominally discretionary spending (capital expenditures, goods and services and subsidies) is only about 25% of total spending. However, large part of these items is in effect also mandatory. For example, about one third of the subsidies is related to agriculture, where most of the subsidies are actually entitlement (for example, per hectare subsidies), and also a large portion is given to the railways company for the payment of wages. Regarding goods and services, the most significant part are medicines purchased through the Health Insurance Fund, and another large part are actually wages (for government research institutes) and also a large part are communal services, electricity and gasoline. In summary, the discretionary spending share of probably below 10% of the total spending, and the largest component is capital expenditures.

The annual budgeting process for the following year starts in the spring of the current year, with the adoption of the publicly available Fiscal Strategy. The Strategy provides the basic macroeconomic framework assumptions and ceilings for the line ministries, as well as the summary of the planned government policies. Ministries are supposed to prepare individual budgets during the summer and the budget should be adopted by the Parliament in the autumn. However, this calendar was respected only in 2012 and 2013, while in the previous years the budget was adopted late in December, and even members of Parliament were not able to analyze the budget prior to its adoption.

Budget execution data (at a highly aggregated level) is available monthly as an Excel file on the Ministry of Finance website. More detailed data is available in the Public Finance Bulletin, a PDF file on the Ministry of Finance website, which is usually available on a monthly basis. Detailed spending data (for example, who exactly received subsidies) is not publicly available. A positive exception was the Ministry of Economy, during the period September 2013 – January 2014, which published very detailed spending data on its website. However, after the Minister resigned, this practice was discontinued.

As already mentioned, about 7% of total government spending (about 1 billion EUR) is spent on subsidies (including net lending). One quarter of this amount is spent at the local level, of which about half are subsidies for public transportation in Belgrade. Most of the remaining amounts are subsidies from local budgets to municipal communal companies – water, sewage, heating and transport.

The Serbian central budget for 2014 envisages spending of about 690 million EUR for subsidies, of which 300 million is for agriculture, 112 million for the state-owned railways company, 70 million to state-owned road company for road maintenance, 70 million for subsidies in culture, and about 75 million for subsidies for the economy. A vast majority of these subsidies is practically mandatory (agriculture, railways, road maintenance, cultural institutions) and only subsidies for the economy are discretionary, to some extent.

### 5.3. Public procurement and corruption

The Public Procurement Office prepares the annual report on the public procurement system with very useful data. The following table provides the basic data on procurement over the past ten years:

**Table 5.3.1**

	Number of contracts	Value [000 RSD]	Average value [000 RSD]
2002	71,292	13,928,272	195
2003	231,661	98,777,652	426
2004	215,815	109,282,212	506
2005	148,758	124,753,207	838
2006	152,485	168,914,947	1,108
2007	122,587	187,559,752	1,530
2008	109,910	234,028,744	2,129
2009	91,992	190,655,028	2,073
2010	83,693	273,055,306	3,263
2011	111,249	293,324,810	2,637
2012	83,487	297,345,078	3,562

The number of contracts has dropped significantly over the years, while the total value has increased. The result is that the average value of the public contract has increased almost ten-fold in nominal terms over the past ten years.

From the anticorruption point of view, perhaps the most relevant data is related to the type of procedure which was used in the public procurement process. Data shows that the share of “open procedure” (as the most transparent procedure) has been rising in recent years, but it is still below 60%. Together with “restricted procedure” (which also features public announcement and invitation) the share is below 70% by value. It is worrying that negotiation procedures account for 34%, but even more worrying is that there has practically been no improvement over the past 5 years.

The implementation of the non-transparent “negotiation procedure” has to be explicitly justified. So, in almost half of the cases the grounds for direct negotiations were supposed “technical and artistic reasons”. In such cases, the Law envisages that the procurer has to

publish his decision to directly hire a certain company, but other companies have 8 days to appeal this decision by claiming that they can also supply the necessary goods or services. It seems that other bidders were not aware of this possibility.

Regarding the management of EU funds, they are still managed by the EU Delegation and the transfer to local management is still an ongoing process.

#### **5.4. The work of public control and compliance bodies**

There is no legal obligation for any of the compliance bodies to publish their annual reports or to make publicly available information about their efforts to provide compliance of the businesses with regulations in their jurisdiction. Furthermore, there is no corporate culture of regular communication with the public about the operations of the compliance bodies. Instead, their websites (if they exist) provide various information for businesses and other parties concerned, but there is no regular information on the activities of the bodies themselves. The most that can be obtained are *ad hoc* press releases by the Fiscal Police (Finansijska policija) about some of their tax evasion or customs fraud actions. Furthermore, the word “corruption”, which was used in official documents and websites of the compliance bodies (particularly the Customs Administration) some 10 year ago, has disappeared today. The only exception is the Public Procurement Administration (Uprava za javne nabavke) which regularly publishes quarterly and annual reports, and which are available on its website.

The important issue is that compliance bodies are organizations within executive branch of government, save the Public Procurement Administration, which is an independent regulatory body. For example, the Customs Administration and the Tax Administration are organisational units within the Ministry of Finance; the Labour Inspectorate is the organisational unit within Ministry of Labour; the Health Inspectorate and Food Inspectorate are organisational units within the Ministry of Trade, etc. Clearly, the predominant corporate culture of the ministries in Serbia is that they are not accountable to the public, which would result in any effort to communicate their activities to the general public. The striking exception from this is the case of an independent regulatory agency, and that case provides guidance for the future reform of the public administration.

#### **5.5. Recommendations**

- The key recommendation for the fight against corruption in this area is swift and thorough deregulation of business activities, i.e. abolishing and decreasing barriers to all business activities. The priority should be in the area of building permits (urban land development) as it was demonstrated that this is not only the major source of corruption, but also the major obstacle for Greenfield investments and consequently to Serbia’s economic growth.
- Reform of the tax administration and procedures, and reform of judiciary are the paramount institutional reforms, because it is evident that these areas create the biggest costs of doing business.
- Government policy of subsidizing (state aid) various sectors and enterprises must be abandoned, as it not only creates huge corruption risks, but also in order to create a level playing field for all businesses, enabling free competition to exist.

- All compliance bodies should publish annual reports on their operations and the results of their inspections. Since independent regulatory bodies proved to be more aware of their accountability to the general public, the institutional reform should take into account this fact when considering moving some of the authority from the executive government bodies to independent regulatory agencies.
- Increasing the comprehensiveness of the Budget, specifically by focusing on providing information in the following areas:
  - a) expenditures at the program level, anticipated expenditures for at least two years beyond the budget year, expenditures for the previous year, by program and functional classification, and actual expenditure for the two years prior to the budget year
  - b) greater detail regarding nontax revenue for the budget year,
  - c) macroeconomic forecasts and assumptions used in developing the budget
  - d) information that shows how policy proposals affect expenditures, linking the budget to the government's stated policy goals for the budget year and future years, including nonfinancial data and performance indicators
  - e) quasi-fiscal activities, financial and nonfinancial assets, expenditure arrears, future liabilities
- Increase the comprehensiveness of the Final Report by releasing the report six months or less after the end of the fiscal year; increasing the level of detail explaining the differences between actual outcomes and the following: original expenditure estimates, original revenue estimates, original macroeconomic forecast, original nonfinancial WHAT?, performance information, extra-budgetary funds
- The main negative feature of the public procurement process is the high percentage of negotiation procedures, especially those with only one bidder.
- It is also necessary to improve administrative capacity of the Public Procurement Office, which under the new law has an important preventive role in preventing the unfounded conclusion of contracts by negotiation procedure.
- It is necessary to introduce mechanisms for better organization and control of public procurement within large procurers (public enterprises, institutions, government agencies and local governments) to maximize the efficiency of the public procurement and to reduce irregularities.
- In addition to internal control mechanisms, it is important to realize and effective external control by establishing mechanisms for coordination between the Public Procurement Office, which monitors public procurement procedures, the Republic Commission for the Protection of Rights in Public Procurement, which also plays a significant preventative role cancelling irregular procedures and prohibiting finalization of contracts, as well as important control institutions such as the Supreme Audit Institution. It is



also necessary for the aforementioned regulatory and control bodies to achieve good cooperation with the judiciary.

## **CHAPTER VI CIVIL SOCIETY IN ANTICORRUPTION**

### **6.1. Overview of the sector**

According to the data from the Business Registry Agency, there are around 17.000 citizen associations in Serbia. This is a very colourful group, as it includes organizations from rural fishing associations to the Serbian Orthodox Church. The data from the Directory of NGOs Serbia, collected by the Centre for the development of nonprofit sector provides a more accurate and relevant information.<sup>1</sup>

The largest group of non-governmental organizations, about one quarter of the total number, deals with humanitarian activities, followed by the uniform number of groups in the field of culture and arts, education and research, environment, local government and so on. The number of non-governmental organizations that is involved in corruption and governance issues was not reported. However, we may assume that organizations that are involved in the “Legislation, advocacy and public policy” category are interested in good governance issues, as well as some organizations from each of categories. For example, some NGOs dealing with “Education and research” are interested in corruption issues in those areas. So, there are relatively few organizations interested solely in corruption and good governance issues (more about that below), but most of the organizations are interested in these issues to some extent.

In the middle of 2011 a survey was done on the state of civil society - Civil Society Baseline Study 2011). From a set of previously registered 13,375 associations they formed a sample of 1,625 associations that have filled in the questionnaire.

The cooperation between the Serbian government and civil society organizations, are seen as mostly unfavourable by the citizen associations. About 22% of organizations rated the cooperation with the Government of Serbia as favourable, while more than 40% of civil society organizations see the general political climate in the country as unfavourable for the development of civil society. Also, about 40% of organizations estimated that the state is not interested, and that the government (at various levels) underestimates the importance of the role of civil society in the development of society. However, a similar number of organizations estimates that the state has a positive attitude towards non-governmental organizations, either through direct support (22%), either through recognition of NGOs as partners (19%).

Regarding the relationship with the business (commercial, market) world, the majority of organizations (over two thirds) have cooperated with the private sector, which, in most cases, took the role of the donor.

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<sup>1</sup> Source: <http://www.crnps.org.rs/2011/broj-udruzenja-gradana-u-direktorijumu-nvo-srbije>,

## 6.2. Main Stakeholders

It should be noted that the Serbian government established the Office for Cooperation with Civil Society in 2010. The role of the Office is to provide an institutional framework for organized cooperation with NGOs and the channel of communication between the state and civil society. Director of the Office is appointed by the Government and is directly responsible to the Prime Minister.

In addition to this Office, some ministries have special units that are dealing with the civil society (these units are usually a part of the broader unit which deals with international cooperation and EU accession). The level of involvement of civil society in the decision making process is mostly dependent on the personality of the minister, however.

## 6.3. Assessment

All in all, we can conclude that the NGO sector is relatively developed in Serbia, but that it is largely relying on the state as the main funder. Also, the "new" NGO sector in Serbia so far profiled primarily as activist and advocacy organizations, while its philanthropic role is still largely absent. This was expected, as local non-governmental sector mainly depends largely on the willingness of donors and policy (either local, or foreign), which often direct the NGO activities.

Although the creation of civil society sector obviously has many advantages, that does not mean that one cannot point out the limitations and weaknesses of NGOs, especially in the early stages of development when the sector is not created as an indigenous project but is being primarily driven by sometimes excessive enthusiasm of donors. The success of the inclusion of non-governmental organizations in the sphere of social services therefore depends not only on the willingness and ability of the state to support these processes, but also on the characteristics and quality of the non-governmental sector. A significant limitation of many NGOs is their relatively limited institutional capacity, and the inability to quickly react in accordance with the requirements of the market and expand their capacity to provide additional services.

In addition, there is no doubt that among non-governmental organizations there are those who operate much like the private sector, with strong financial motives. Often, especially in countries in transition, the NGO organized professionals who were previously employed in the public sector, with the sole motive to earn better wages. NGO sector also includes organizations with problems of lack of accountability, lack of internal democracy, and sometimes even unscrupulous leaders who manipulate funds and users solely for their own private benefit.

Apart from the public institutions, local NGO's and media are monitoring corruption and anticorruption instruments in a more or less systematic manner. Among these are Pistaljka (The Whistle), Istinomer (Truth meter), Balkan Investigative Reporting Network, Center for investigative reporting, Transparency Serbia, Follow the money, Vodite racuna, Clean Politics.

**Table 6.3.1. Selected corruption related reports and analyses**

Name of the monitoring institution	Report	Dates / years of issues	About
Transparentnost Srbija	National Integrity System Assessment Serbia  <a href="http://www.transparentnost.org.rs/images/stories/materijali/procenaintegriteta/National%20Integrity%20System%20Assessment%20Serbia%202011.pdf">http://www.transparentnost.org.rs/images/stories/materijali/procenaintegriteta/National%20Integrity%20System%20Assessment%20Serbia%202011.pdf</a>	2011	<p>The NIS assessment is an analysis based on combining research regulations and other documents, secondary sources (surveys, reports, publications, and press articles) and direct in-depth interviews with stakeholders and experts.</p> <p>Analyses present replies to the scoring questions and are based on the guiding questions, which were developed by examining international best practices, existing assessment tools for the respective pillar, by the experience of the TS and TI movement and by seeking input from experts.</p> <p>NIS consists of the analysis of 15 functional pillars of the integrity system.</p>
Transparentnost Srbija	Judiciary in the fight against corruption  <a href="http://www.transparentnost.org.rs/images/stories/materijali/pravosudje%20u%20borbi%20protiv%20korupcije/Judiciary%20in%20the%20fight%20against%20corruption,%20key%20findings%20of%20research%20and%20recommendations.pdf">http://www.transparentnost.org.rs/images/stories/materijali/pravosudje%20u%20borbi%20protiv%20korupcije/Judiciary%20in%20the%20fight%20against%20corruption,%20key%20findings%20of%20research%20and%20recommendations.pdf</a>	2013	<p>The goal of the project was to identify results of the reformed judiciary in the fight against corruption, in the application of preventive anti-corruption laws, weaknesses of the system and to recommend solutions.</p> <p>Partners conducted in-depth analyses of the legal framework taking into consideration judiciary and prosecution and anti-corruption legislation.</p>
Center for Liberal – Democratic Studies	Corruption in Serbia  <a href="http://www.clds.rs/pdf/e-e-korupcija.pdf">http://www.clds.rs/pdf/e-e-korupcija.pdf</a>	2001	<p>The goal of this study was to, based on clear theoretical premises and available and processed empirical material, explain the causes and mechanisms of corruption in Serbia, and to comprehend most significant consequences of corruption.</p> <p>Based on that empirical knowledge, to define an</p>

			anti-corruption strategy, which should then be transformed into an action plan.
Center for Liberal – Democratic Studies	Corruption in the Customs Administration	2002	The aim of the study was to offer an institutional analysis of the causes of corruption at the customs and to suggest a wide and consistent range of anti-corruption measures aimed at reducing corruption to an absolute minimum.
	<a href="http://www.clds.rs/pdf-e/corruption-at-the-customs.pdf">http://www.clds.rs/pdf-e/corruption-at-the-customs.pdf</a>		
Center for Liberal – Democratic Studies	Corruption in Judiciary	2004	The aim of the study was to examine the extent of judicial corruption, provide an institutional analysis of the causes and mechanisms of corruption and to suggest a comprehensive and effective program for combating corruption in the judiciary.
	<a href="http://www.clds.rs/pdf-e/Corruption_in_judiciary.pdf">http://www.clds.rs/pdf-e/Corruption_in_judiciary.pdf</a>		
Center for Liberal – Democratic Studies	Corruption in Serbia: Five Years Later	2006	This study contains an analysis of the changes in the corruption level and effects of government policies during the five years of transition in Serbia, i.e. after the October changes. Hence, the idea was to look at the dynamics of corruption and anti-corruption efforts in this period and assess the successfulness of the measures undertaken. The study has shown that corruption was reduced significantly in 2006 relative to 2001, but also that the positive change is not at the level of expectations among the people and political promises.
	<a href="http://www.clds.rs/newsite/Politika%20i%20korupcija%20Eng.pdf">http://www.clds.rs/newsite/Politika%20i%20korupcija%20Eng.pdf</a>		
BIRODI	Fight Against Corruption – Alternative Report	2012	Alternative report about corruption and anticorruption efforts in Serbia.
	<a href="http://www.birodi.rs/borba-protiv-korupcije-alternativni-izvestaji-2012/">http://www.birodi.rs/borba-protiv-korupcije-alternativni-izvestaji-2012/</a>		

## **CHAPTER VII**

### **INTERNATIONAL ASPECTS OF THE FIGHT AGAINST CORRUPTION**

The authorities in Serbia place, at least formally, international standards and obligations in the centre of fight against corruption. Having in mind the fact that the EU integration has been declared to be a priority, and that EU has put anti corruption at the forefront of the accession agenda, corruption is also at the top of authorities' agenda. Namely, European Union requires explicitly all the countries that want to become its members not only to adopt the EU Acquis but also to ratify and apply all the most significant international anti-corruption instruments, particularly stating the relevant conventions of the United Nations, Council of Europe and the OECD. According to the EU, progress in corruption elimination and institution strengthening are essential for further development of the West Balkan countries.

Apart from this wider, regional approach to the problem of corruption, through different forms of relations, firstly with the Federal Republic of Yugoslavia, than the State Union Serbia and Montenegro and finally with the Republic of Serbia, the European Union has been pointing out the problem of corruption, mostly within the wider issues of the rule of law.

Serbia has improved its position in the TI Corruption Perception Index over the last three years. After being 86<sup>th</sup> in 2011, it moved to 80<sup>th</sup> position in 2012 and to the 72<sup>nd</sup> place in 2013.

#### **7.1. Overview of formal fulfilment of international standards**

When it comes to formal fulfilment of international anti-corruption standards, the Republic of Serbia (until May 2006 in the state union with Montenegro) has signed and ratified a number of agreements. This process has been developing more slowly compared to the other countries in the region, primarily due to the non-functional State Union Serbia and Montenegro, formed in spring 2003, within whose competence was ratification of international agreements. Thus, most of the conventions were ratified in the period of existence of the Federal Republic of Yugoslavia.

The following conventions were ratified:

1. The UN Anti-corruption Convention (2005)
2. The Council of Europe Criminal Law Convention on Corruption (2002)
3. The Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime (2002)
4. The United Nations Convention against Transnational Organized Crime (2001)
5. The European Convention on Mutual Assistance in Criminal Matters with additional protocol (2001)
6. The Council of Europe Civil Law Convention on Corruption (2005)

7. The Additional Protocol to the Council of Europe Criminal Law Convention on Corruption (2008)

8. The Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism (2005)

In addition to the previously mentioned ratified conventions, **Serbia also signed the, but has not ratified:**

The Council of Europe Convention on Cybercrime and Additional Protocol (2005)

The Republic of Serbia has not signed the OECD Convention on Combating Bribery of Foreign Public Officials, either, because it was suggested by this international organization that it was too early for that.

## **7.2 International anti-corruption cooperation**

The Republic of Serbia has well-developed international anti-corruption cooperation. It participates in a number of international programs, bodies and initiatives, and bilateral cooperation programs are taking place as well. Certainly, the most significant projects are those carried out by the Council of Europe, whether by itself or together with the European Commission.

The Republic of Serbia is active in the work of the Council of Europe bodies and programs, such as the Council of Europe Group of States Against Corruption (GRECO), the Council of Europe Program Against Corruption and Organized Crime in Southeast Europe (OCTOPUS) and the Select Committee of Experts on the Evaluation of Anti-Money Laundering Measures (MONEYVAL).

As a member of the Council of Europe Group of States Against Corruption (GRECO), Serbia has responded to all evaluation rounds. In the Third Evaluation Report, there were numerous recommendations regarding both Theme 1 (Incriminations) and Theme 2 (Party Financing).

The Government of the Republic of Serbia cooperates in the anti-corruption area with other international organizations and foreign governments as well, with whose help a number of conferences, seminars and working visits have been organized, particularly significant of which are the two initiatives under the auspices of the Stability Pact: the Southeast Europe Stability Pact Anti-corruption Initiative (SPAI) and the Initiative Against Organized Crime (SPOC).

When it comes to the regional dimension of fight against corruption, this issue has also been discussed regularly within the Southeast European Cooperation Process (SEECF), as well as the Anti-corruption Network for Transition Economies (ACN).

### 7.3. Future necessary standards and activities

In spite of the fact that Serbia has ratified most of international anticorruption instruments, as we have already seen previously, a certain number of international conventions and documents still remained to be ratified, such as the Council of Europe Convention on Cybercrime and Additional Protocol.

In the future, Serbia will also need to sign and ratify the OECD Convention on Combating Bribery of Foreign Public Officials.

### 7.4. EU Accession and Corruption

As already said, progress in elimination of corruption and strengthening of institutions are essential for further development of the West Balkan countries, so we will summarize the main findings of the two most recent Progress Reports.

**Progress report from 2012** says that “Serbia has made little progress on anti-corruption policy”. The Anti-Corruption Agency’s operations increased, mainly focusing on prevention. The Agency started to implement the 2011 Law on the Financing of Political Activities, and continued to make targeted checks on asset declarations collected and to process cases of dual public functions presenting a risk of conflict of interest. However, the Agency has still to establish a track record of effective checks on party funding and electoral campaign. It also needs to improve cooperation with relevant stakeholders to investigate declarations of assets effectively. There was little action to protect whistleblowers. There has been no further follow-up to the reports of the Anti-Corruption Council on high-profile cases. The Report also says that “Further efforts are needed in order to establish a track record of prosecution and conviction, particularly in high-level cases. The law enforcement bodies need to become more proactive and develop their ability to conduct financial investigations.”

**Progress Report from 2013** was much more positive. It said that anti-corruption policy has been underpinned by a strong ‘zero tolerance’ message from the government. Also, it commends the Government for adopting a new Strategy for Fight against Corruption, following broad stakeholder consultation. The implementation of the strategy and action plan will test Serbia’s preparedness and willingness to proceed forward. It remains crucial that adequate resources are allocated. EU also stresses that the implementation of outstanding Council of Europe Anti-Corruption Group (GRECO) recommendations has continued and the Criminal Code was amended in December to comply with the recommendations of the incriminations chapter of GRECO’s third evaluation round of September 2012.

**Progress Report from 2014** says that “Serbia further implemented the recommendations of the Council of Europe Group of States against Corruption (GRECO). Implementation of the strategy and action plan for 2013-2018 has yet to mirror the strong political impetus to fight corruption. Several measures have been delayed.” The Report also stresses that the mechanism for monitoring implementation of the anti-corruption strategy and action plan needs to be ensured and also that adequate resource and human capacities for implementation of the Strategy and action plan need to be allocated.